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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,454	06/30/2003	James Harold Gray	36968/332542	1616
32210 7590 09/19/2007 JOHN S. PRATT KILPATRICK STOCKTON LLP 36968 1100 PEACHTREE STREET SUITE 2800 ATLANTA, GA 30309			EXAMINER INGVOLDSTAD, BENNETT	
			ART UNIT 2609	PAPER NUMBER
			MAIL DATE 09/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/611,454

**Applicant(s)**

GRAY ET AL.

**Examiner**

Bennett Ingvaldstad

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____;  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 3 and 17 are objected to because of the following informalities:  
Claims 3 and 17: "further comprising performing" should be changed to --further comprises performing--.  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 5-9, 12-16, and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Omoigui (US 2005/0096688).

Regarding claim 1, Omoigui discloses a method comprising:

- determining at a head-end and data center whether to inform one or more users of an interactive television service of available content (an encoder/server determines where to send alternate content notifications

[0036]), the one or more users connected with head-end and data center via a network (Fig. 1);

- responsive to determining to inform the one or more users of the available content, generating a hot key signal indicating availability and a location of the alternate content (a notification is sent after the determination [0037]); and
- inserting the hot key signal into a content signal transmitted to the one or more users from the head-end and data center via the network (encoder/server sends notifications to client devices [0037])

Regarding claim 8, Omoigui discloses a head-end and data center system comprising:

- a hot key generation portion to determine whether to inform one or more users of an interactive television service of available content (an encoder/server determines where to send alternate content notifications [0036]), the one or more users connected with the head-end and data center via a network (Fig. 1) and responsive to determining to inform the one or more users of the available content, generating a hot key signal indicating availability and a location of the alternate content (a notification is sent after the determination [0037]);
- a multiplexor system to insert the hot key signal into a content signal (the video and other data are transmitted together [0029]); and

- a transport system to transmit to the one or more users from the head-end and data center via the network (Fig. 1)

Regarding claim 15, Omoigui discloses a machine-readable medium having stored thereon a series of instructions, the instructions, when executed by a processor, cause the processor to (a dedicated media server or a general purpose computer [0054] imply processors with machine-readable media having stored instructions):

- determine at a head-end and data center whether to inform one or more users of an interactive television service of available content (an encoder/server determines where to send alternate content notifications [0036]), the one or more users connected with head-end and data center via a network (Fig. 1);
- responsive to determining to inform the one or more users of the available content, generate a hot key signal indicating availability and a location of the alternate content (a notification is sent after the determination [0037]); and
- insert the hot key signal into a content signal transmitted to the one or more users from the head-end and data center via the network (encoder/server sends notifications to client devices [0037])

Regarding claims 2, 9, and 16, depending on claims 1, 8, and 15, Omoigui further discloses:

- wherein determining whether to inform one or more users of an interactive television service of available content is based on results of a search of programming information (encoder/server compares programming information events with user preferences to make the determination [0036])

Regarding claims 5, 12, and 19, depending on claims 1, 8, and 15, Omoigui further discloses:

- wherein determining whether to inform one or more users of an interactive television service of available content is based on information received during generation of programming information (viewer-provided criteria is compared to live content information [0078], which is generated by compiling data from multiple sources [0071], in order to make the determination)

Regarding claims 6, 13, and 20, depending on claims 1, 8, and 15, Omoigui further discloses:

- wherein the hot key signal comprises an Internet Protocol (IP) data packet, the IP data packet having a header portion and a body portion, the body portion having a data field indicating a location of the alternate

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content (content which includes video and other data i.e. notifications [0029] can be multicast over the Internet [0031] which implies using IP packets, and a location of the alternate content is included so the user can switch to the other presentation [0009])

Regarding claims 7, 14, and 21, depending on claims 6, 13, and 20, Omoigui further discloses:

- wherein the IP data packet is transmitted from the head- end and data center as an IP multicast to the one or more users via the network (content is multicast over the Internet [0031])

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-4, 10-11, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Omoigui (US 2005/0096688) in view of Zap2it.com.

Regarding claims 3, 10, 17, depending on claims 2, 9, and 16, Omoigui discloses performing a search of data from multiple sources (live content

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information from multiple sources [0071]) in order to determine whether to inform users of an interactive television service of available content (live content facilitates notification [0070]).

Omoigui does not disclose that the multiple sources are web sites.

Zap2it.com discloses live content information on a web site (listings [Zap2it.com]).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the live content information sources disclosed by Omoigui to be web sites as disclosed by Zap2it.com for the purpose of retrieving programming information from the Internet ([Zap2it.com]).

Regarding claims 4, 11, and 18, depending on claims 3, 10, and 17, Omoigui in view of Zap2it.com further discloses:

- wherein performing a search of one or more web sites comprises using the results of the search of programming information (a search is performed when the database is continually updated [0072] and the source of the updated information may be a web site [Zap2it.com]; the searching/updating is based on the results of previous programming information searches i.e. information used to update the database [0072])




**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bennett Ingvaldstad whose telephone number is (571) 270-3431. The examiner can normally be reached on M-Th 7-5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hai Tran can be reached on (571) 272-7305. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BI

  
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PRIMARY PATENT EXAMINER